IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11691 of 2004

Between:

A.V.V.S.N.MURTHY, S/o. Suryanarayana Murthy,
APCOB Coop. Training Institute, Rajendra Nagar, Hyderabad.

..... PETITIONER

AND

Cadre Authority (for Key Personnel of Cooperative Central Banks/Apex Bank), rep. by Member Secretary,
A.P. State Co-Operative Bank Limited. P.B.No.142, Hyderabad - 500 001.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of CERTIRIORI and to call for records relating to and connected with Show Casue Notice No.CDR/202/930 dated 24-06-2003 of the Member Secretary, A.P. State Co-Operative Bank Limited, Hyderabad and quash or set aside the same with all consequential benefits

Counsel for the Petitioner:MR.P.NAVEEN RAO

Counsel for the Respondent: Mr. D.S.N.V. PRASAD BABU

The Court made the following :

The Hon’ble Sri Justice

K.C. Bhanu

W.P. No. 11691 of 2004

O R D E R:

A show-cause notice No.CDR/202/930 dated 24.6.2003 was issued by the Member Secretary, A.P. State Cooperative Bank Limited, Hyderabad calling upon the petitioner to show-cause as to why he should not be inflicted with the punishment of dismissal from service. Questioning the same, the present writ petition is filed.

According to the petitioner, the Enquiry Officer conducted a perfunctory enquiry without giving any reasonable opportunity to defend his case; that the important and relevant documents were not supplied and his principal contentions were not considered and the witnesses were not produced for examination and the enquiry officer relied upon the documents obtained behind the back of the petitioner. Therefore, he brought it to the notice of the competent authority. The disciplinary authority accepted his contentions and remanded the matter back to the enquiry officer by reopening the enquiry with a direction to conduct further enquiry with certain observations. Even after remand, the enquiry officer has not conducted the enquiry proceedings properly. Hence, he prays to set aside the impugned proceedings.

The learned counsel for the petitioner contended that though the disciplinary authority remanded the matter on 8.10.2003 to consider three aspects, but those aspects have not been considered by the enquiry officer. Certain documents which are necessary for the purpose of defending the case are not supplied to him. As the relevant and important documents have not been supplied, it causes great prejudice in setting up the case of the petitioner to effectively deal with the matter in the enquiry proceedings. Therefore, the impugned show-cause notice suffers from legal infirmities such as the disciplinary authority already came to the pre-conclusion to dismiss the petitioner from service and the

committee has already resolved to impose punishment of dismissal. Therefore, he prays to set aside the impugned proceedings.

On the other hand, the learned counsel for the respondent contended that it is only a show-cause notice and if the petitioner has any grievances he can put-forth the same by giving explanation before the disciplinary authority and it is not a case of lack of jurisdiction in conducting enquiry or about the competence of the disciplinary authority to issue show cause notice and hence there are no grounds to interfere with the impugned proceedings.

For certain irregularities alleged to have been committed by the petitioner for sanction, disbursement, maintenance of consumer durable loan accounts, a regular departmental enquiry was ordered against him while he was working as Branch Manager, A.P. State Cooperative Bank Limited, Hyderabad. The Enquiry Officer conducted enquiry and furnished the report dated 27.4.2002 to the disciplinary authority. The disciplinary authority remanded the matter to the enquiry officer for further enquiry on three aspects, 1) the summing up notes of the writ petitioner have to be considered in the domestic enquiry; 2) the charged officer is permitted to submit his further explanation and the Enquiry Officer shall consider the said arguments or explanation, and 3) the enquiry officer shall conduct further enquiry in the matter and furnish remarks on each charge. The further enquiry conducted by the enquiry officer and the report thereon has not been placed by the petitioner to know whether the enquiry officer conducted the enquiry on the point raised by the disciplinary authority. Even otherwise, the points which were raised in this court can always be raised by giving explanation to the show-cause notice to the disciplinary authority. It is not a case of violation of principles of natural justice. In the earlier occasion also when the petitioner brought it to the notice of the disciplinary authority with regard to certain lapses, the disciplinary authority remanded the matter. Therefore, basing on the material available on record it is for the disciplinary authority to take a decision.

Learned counsel for the petitioner relied upon a decision of this Court in *M.P. Ramachandra Reddy v. Chairman, Visakhapatnam Port Trust* wherein it is held "applying the principles laid down by the Supreme Court it has to be considered whether there is any violation of principles of natural justice on account of denial of documents as observed by me, the documents were specifically directed to be furnished by the Enquiry Officer and they have not been furnished".

In the aforementioned case the petitioner therein was removed from service. Questioning the same, the writ petition is filed. Because the relevant documents were not furnished to the petitioner therein, it was found that the enquiry was vitiated by non-observance of principles of natural justice. That stage has not come in this case. The present case is only with regard to a show-cause notice calling for the explanation.

Learned counsel for the petitioner relied upon another decision of the supreme court in *Bhupinder Pal Singh v. Director General of Civil Aviation* wherein their Lordships held "It appears to us that no opportunity was given to the appellant either during the inquiry made for the first time or in the second inquiry. Since the order passed is in clear violation of principles of natural justice, it is unnecessary for us to go into the merits of the other contentions raised".

The final order was not passed by the disciplinary authority. So the above decisions have no application to the present facts of the case. Hence there are absolutely no grounds to interfere with the impugned proceedings as it does not suffer from any legal infirmities. Immediately after receipt of the show-cause notice, the petitioner approached this court. Therefore, he does not have any opportunity to give explanation to the show-cause notice dated 24.6.2004. As the time granted has elapsed, in the fitness of things further time can be given to the petitioner to offer explanation.

In the result, the writ petition is disposed of directing the

petitioner to submit explanation to the show-cause notice within a period of two weeks from today and thereafter the respondent shall pass appropriate orders as per law. In the circumstances, no costs.

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K.C. Bhanu, J.

Dt. 23–07—2004.

MVB.

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.... REGISTRAR

To

1. Cadre Authority (for Key Personnel of Cooperative Central Banks/Apex Bank), rep. by Member Secretary,
   A.P. State Co-Operative Bank Limited. P.B.No.142, Hyderabad - 500 001.

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